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The Director of Central Intelligence

Washington, D C 20505

Executive Registry

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29 November 1984

MEMORANDUM FOR: Assistant to the President for National Security Affairs

SUBJECT: Proposals for Consideration re Dealing with the
Unauthorized Disclosure of Classified Information

1. Following upon the NSPG meeting of 16 November, and my meeting with the PFIAB on 19 November, in which the subject of leaks was a major topic of discussion, I convened a special Senior Interagency Group (Intelligence) (SIG-I) meeting on 20 November to discuss what steps might be taken to deal with the situation; one that has clearly gotten out of control.

2. During the SIG-I meeting there was a wide ranging discussion of potential actions that might be taken in order to maintain security and protect sources and methods. The paragraphs that follow set forth the views of the SIG-I on specific steps that could be taken under eight broad categories. These are provided for your consideration at a future NSC/NSPG meeting.

Presidential Initiative

3. Charge to Senior Officials. The SIG-I agreed with Judge Webster's proposal that the President should make clear to his top officials the importance of protecting classified information, charge them with the responsibility for taking effective action to prevent any such unauthorized disclosure, and require periodic reports from them on steps taken and problems encountered. First, the President could use a Cabinet meeting to make his views and expectations known. Subsequently, at a meeting of all Presidential appointees (which he has tended to hold annually), he could make clear what he has asked the Cabinet to do and what he expects of everyone serving in his Administration.

4. Public Statement. A Presidential statement, in an appropriate forum, should also be considered. Such a statement would focus on the serious problems caused by the disclosure of classified information, the actions directed by the President, and emphasize the fact that these steps were taken, not with any intention to stifle the news media or freedom of speech, but to ensure that those with a responsibility to protect the nation's secrets and its sources and methods do so.

5. Presidential Commission. This, too, was discussed by the SIG-I as a possible way to dramatize further both the extent of the problem and the intention to deal with it. It could be achieved by appointing a bipartisan blue ribbon panel to investigate the nature and effect of the disclosure of classified information, and report its findings to the President.

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6. Conference with News Media Officials. Such a meeting, involving the President and senior media executives to solicit their cooperation in protecting classified information, was discussed. The SIG-I felt such a step was risky, could back fire and lead to charges of Administration attempts to stifle freedom of the press; nevertheless, it is an option.

Control of Disclosures

7. In spite of considerable discussion on the inherent difficulties in dealing with the utterances of public officials, the SIG-I was in agreement that some mandatory procedures are needed for the coordination of any public statement that might be based on, or contain, classified information. General Stilwell advised that there is a procedure used by DoD in vetting proposed statements by OSD officials with the Intelligence Community. At present, however, this procedure is neither well known nor mandatory; nevertheless, it, or something like it, can provide the basis for a Presidential policy that the President can implement and announce to the Cabinet, making it both government-wide and mandatory.

8. It was also agreed that, concomitant with the establishment of such a procedure, there must clearly stated, and well understood, sanctions for noncompliance.

Media Relations

9. While acknowledging the need for government officials to talk to the press, the SIG-I agreed that regulation of contacts between government employees and the media is needed to help control unauthorized disclosures. Since current regulatory requirements are extremely uneven among departments and agencies, there was agreement with Judge Webster that a common policy of recording media contacts and topics discussed should be adopted. In doing so, however, it must be clear that such a policy is directed at government employees, not the media.

10. Centralized Control of Press Contacts. Government-wide regulations should be established that require personnel cleared for classified intelligence to centrally record with their agencies all press contacts, including dates and the identities of media representatives.

11. Press Access. The SIG-I, while recognizing that press access varies among departments and agencies, noted there is no reason for such access to be greater than that afforded the general public.

12. Media Interviews. Another option considered by the SIG-I was to have government employees who are cleared for access to sensitive intelligence obtain approval for media interviews in advance. When it is anticipated that such interviews might involve or derive from classified information, consideration should be given to having a knowledgeable public affairs or security officer present, and a record of the interview maintained.

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Investigations

13. Initiation. The SIG-I agreed with Judge Webster that promptness in initiating investigations of unauthorized disclosures is critical in order to allow for immediate and vigorous investigation, whether it results in prosecution or administrative action. Referral of cases to the FBI must be expedited. The delays engendered by internal investigations by departments and agencies and by responding to Justice Department inquiries on individual cases frequently allows months to elapse. Judge Webster stressed that, in order to be effective, the FBI investigation must be initiated approximately one week after the leak occurs. An investigation should be conducted only when classified information is identifiable in a news story. Existing authorities for unauthorized disclosure investigations appear to be adequate.

14. Polygraph. The SIG-I views the polygraph as a useful investigative tool in unauthorized disclosure cases. The use of the polygraph, however, requires both firm policy guidelines and strict operational procedures and oversight of examiner personnel. Further, it should be used only in cases involving the most serious unauthorized disclosures of classified information and/or intelligence sources and methods, and its use should be confined to contacts and circumstances relevant to that investigation. The purpose of using the polygraph is to guide the investigation and to suggest areas for inquiry; it is not to be the determinant of guilt or innocence. Decisions regarding culpability reside with appropriate officials who must consider all pertinent, available information.

15. Analytic Center. I have ordered the establishment of an Unauthorized Disclosures Analysis Center in the DCI Security Committee. Procurement of data processing equipment and establishment of reporting channels has already begun. There was SIG-I agreement that the creation of such a center to compile and analyze data on unauthorized disclosures involving classified information would be of great help to individual departments and agencies in leak investigations. This facility will compile up-to-date information on unauthorized disclosures, provide data for use in conducting investigations and for raising awareness of the scope and seriousness of the unauthorized disclosure problem, and assist in early referral of investigations to appropriate departments and agencies.

Legal

16. PFIAB Initiative. The SIG-I considered, and generally approved, a PFIAB proposal that, in selected cases involving the most serious risk to our national security, diplomacy or sources and methods, a newsman who publishes unauthorized disclosures of classified information should be brought before a federal grand jury, given immunity and ordered to identify the source of the classified information. The reporter and his publisher would be fined daily until the source's identity is revealed. The PFIAB proposal emphasizes that the target of the grand jury inquiry is not the reporter or the media, but the cleared individual who has

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violated his written contract not to reveal classified information. A novel feature of the PFIAB proposal is that, rather than make a martyr of the reporter by sending him to jail for contempt, it would impose a fine on him and on the corporation employing him. Edward Bennett Williams and Leo Cherne will brief the Attorney General on this proposal on 30 November.

Dissemination

17. Recent initiatives for administrative controls were endorsed by the SIG-I for broader application. These include: ongoing review and reduction of the dissemination of classified material; greater use of "read and return" procedures; specially marked, identifiable paper for sensitive documents; stricter follow-up on controlled materials; and the use of tagged documents which set off an alarm when removed from controlled areas.

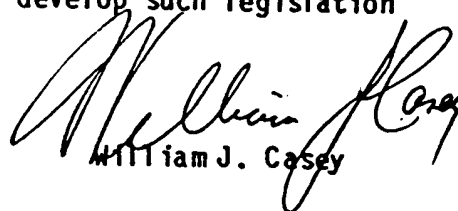
18. Need-to-know. The SIG-I recognized that adherence to the need-to-know principle has apparently eroded; this could be revitalized in the President's charge to his Cabinet and other appointees. An intensive effort throughout the government is needed to ensure understanding of the President's desire that the need-to-know principle be enforced. The SIG-I also feels that there should be a specific prohibition on the retention of classified material by former officials who have left the government.

Education

19. The SIG-I agreed that a program of intensified security education is needed at all levels, emphasizing individual responsibility and the potential damage resulting from unauthorized disclosures. Every medium available should be utilized, including live briefings, videotapes, posters, etc. The effort to change the prevailing attitude that leaks are a way of life must be strong, unrelenting and carefully crafted to emphasize the responsibility of cleared people to keep the secrets they have agreed to protect. The allocation of significant resources to this task is essential. The enthusiastic cooperation of all departments and agencies in the program will be indispensable.

Legislation

20. The SIG-I agreed that, regardless of whether their purpose is to aid a foreign power, individuals who publicly reveal classified information should be subject to a law that makes their breach of trust a criminal act. Congressional initiatives to develop such legislation should be encouraged and supported.



William J. Casey

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